

§ 208.2, Nt.

8 CFR Ch. I (1–1–21 Edition)

EFFECTIVE DATE NOTE: At 85 FR 80386, Dec. 11, 2020, § 208.2 was amended by adding paragraph (c)(1)(ix), effective Jan. 11, 2021. For the convenience of the user, the added text is set forth as follows:

§ 208.2 Jurisdiction.

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(c) * * *

(1) * * *

(ix) An alien found to have a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture in accordance with §§ 208.30, 1003.42, or 1208.30.

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§ 208.3 Form of application.

(a) An asylum applicant must file Form I-589, Application for Asylum and for Withholding of Removal, together with any additional supporting evidence in accordance with the instructions on the form. The applicant's spouse and children shall be listed on the application and may be included in the request for asylum if they are in the United States. One additional copy of the principal applicant's Form I-589 must be submitted for each dependent included in the principal's application.

(b) An asylum application shall be deemed to constitute at the same time an application for withholding of removal, unless adjudicated in deportation or exclusion proceedings commenced prior to April 1, 1997. In such instances, the asylum application shall be deemed to constitute an application for withholding of deportation under section 243(h) of the Act, as that section existed prior to April 1, 1997. Where a determination is made that an applicant is ineligible to apply for asylum under section 208(a)(2) of the Act, an asylum application shall be construed as an application for withholding of removal.

(c) Form I-589 shall be filed under the following conditions and shall have the following consequences:

(1) If the application was filed on or after January 4, 1995, information provided in the application may be used as a basis for the initiation of removal proceedings, or to satisfy any burden of proof in exclusion, deportation, or removal proceedings;

(2) The applicant and anyone other than a spouse, parent, son, or daughter of the applicant who assists the applicant in preparing the application must sign the application under penalty of perjury. The applicant's signature establishes a presumption that the applicant is aware of the contents of the application. A person other than a relative specified in this paragraph who assists the applicant in preparing the application also must provide his or her full mailing address;

(3) An asylum application must be properly filed in accordance with 8 CFR part 103 and the filing instructions. Receipt of a properly filed asylum application will commence the 365-day period after which the applicant may file an application for employment authorization in accordance with § 208.7 and 8 CFR 274a.12 and 274a.13.

(4) Knowing placement of false information on the application may subject the person placing that information on the application to criminal penalties under title 18 of the United States Code and to civil or criminal penalties under section 274C of the Act; and

(5) Knowingly filing a frivolous application on or after April 1, 1997, so long as the applicant has received the notice required by section 208(d)(4) of the Act, shall render the applicant permanently ineligible for any benefits under the Act pursuant to § 208.20.

[62 FR 10337, Mar. 6, 1997, as amended at 65 FR 76131, Dec. 6, 2000; 85 FR 38626, June 26, 2020]

§ 208.4 Filing the application.

Except as prohibited in paragraph (a) of this section, asylum applications shall be filed in accordance with paragraph (b) of this section.

(a) *Prohibitions on filing.* Section 208(a)(2) of the Act prohibits certain aliens from filing for asylum on or after April 1, 1997, unless the alien can demonstrate to the satisfaction of the Attorney General that one of the exceptions in section 208(a)(2)(D) of the Act applies. Such prohibition applies only to asylum applications under section 208 of the Act and not to applications for withholding of removal under § 208.16. If an applicant files an asylum application and it appears that one or more of the prohibitions contained in